

# SB1761



## 99TH GENERAL ASSEMBLY

### State of Illinois

2015 and 2016

SB1761

Introduced 2/20/2015, by Sen. Ira I. Silverstein

#### SYNOPSIS AS INTRODUCED:

30 ILCS 500/50-36.5 new  
40 ILCS 5/1-110.16 new

Amends the Illinois Procurement Code. Prohibits a State agency from entering into a contract subject to the Code with a business that boycotts Israel. Amends the General Provisions Article of the Illinois Pension Code. Requires each of the 5 State-funded retirement systems (or the Illinois State Board of Investment where applicable) to make its best efforts to identify all companies that boycott Israel in which it has direct or indirect holdings and, under certain circumstances, to divest itself of holdings in those companies.

LRB099 10953 RPS 31300 b

FISCAL NOTE ACT  
MAY APPLY

PENSION IMPACT  
NOTE ACT MAY  
APPLY

A BILL FOR

1 AN ACT concerning finance.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 5. The Illinois Procurement Code is amended by  
5 adding Section 50-36.5 as follows:

6 (30 ILCS 500/50-36.5 new)

7 Sec. 50-36.5. Prohibition on contracts with businesses  
8 that boycott Israel. Notwithstanding any other provision of  
9 this Code, on and after the effective date of this amendatory  
10 Act of the 99th General Assembly, a State agency shall not  
11 enter into a contract subject to this Code with a business that  
12 boycotts Israel. For the purposes of this Section, "boycott  
13 Israel" means engaging in actions that are politically  
14 motivated and are intended to penalize, inflict economic harm  
15 on, or otherwise limit commercial relations with the State of  
16 Israel or businesses based in the State of Israel or in  
17 territories controlled by the State of Israel.

18 Section 10. The Illinois Pension Code is amended by adding  
19 Section 1-110.16 as follows:

20 (40 ILCS 5/1-110.16 new)

21 Sec. 1-110.16. Transactions prohibited by retirement

1 systems; companies that boycott Israel.

2 (a) As used in this Section:

3 "Boycott Israel" means engaging in actions that are  
4 politically motivated and are intended to penalize, inflict  
5 economic harm on, or otherwise limit commercial relations with  
6 the State of Israel or companies based in the State of Israel  
7 or in territories controlled by the State of Israel.

8 "Company" means any sole proprietorship, organization,  
9 association, corporation, partnership, joint venture, limited  
10 partnership, limited liability partnership, limited liability  
11 company, or other entity or business association, including all  
12 wholly owned subsidiaries, majority-owned subsidiaries, parent  
13 companies, or affiliates of those entities or business  
14 associations, that exists for the purpose of making profit.

15 "Direct holdings" in a company means all securities of that  
16 company that are held directly by the retirement system or in  
17 an account or fund in which the retirement system owns all  
18 shares or interests.

19 "Indirect holdings" in a company means all securities of  
20 that company that are held in an account or fund, such as a  
21 mutual fund, managed by one or more persons not employed by the  
22 retirement system, in which the retirement system owns shares  
23 or interests together with other investors not subject to the  
24 provisions of this Section.

25 "Private market fund" means any private equity fund,  
26 private equity fund of funds, venture capital fund, hedge fund,

1 hedge fund of funds, real estate fund, or other investment  
2 vehicle that is not publicly traded.

3 "Retirement system" means a retirement system established  
4 under Article 2, 14, 15, 16, or 18 of this Code, or the  
5 Illinois State Board of Investment with respect to investments  
6 of the assets of any of those retirement systems under its  
7 management.

8 (b) Within 90 days after the effective date of this  
9 Section, each retirement system shall make its best efforts to  
10 identify all companies that boycott Israel in which the  
11 retirement system has direct or indirect holdings.

12 These efforts shall include the following, as appropriate  
13 in the retirement system's judgment:

14 (1) reviewing and relying on publicly available  
15 information regarding companies that boycott Israel,  
16 including information provided by nonprofit organizations,  
17 research firms, and government entities;

18 (2) contacting asset managers contracted by the  
19 retirement system that invest in companies that boycott  
20 Israel; and

21 (3) contacting other institutional investors that have  
22 divested from or engaged with companies that boycott  
23 Israel.

24 The retirement system may retain an independent research  
25 firm to identify companies that boycott Israel in which the  
26 retirement system has direct or indirect holdings. By the first

1 meeting of the retirement system following the 90-day period  
2 described in this subsection (b), the retirement system shall  
3 assemble all of those identified companies into a list of  
4 companies that boycott Israel.

5 The retirement system shall annually update the list of  
6 companies that boycott Israel based on evolving information  
7 from, among other sources, those listed in this subsection (b).

8 (c) The retirement system shall adhere to the following  
9 procedures for companies on the list of companies that boycott  
10 Israel:

11 (1) The retirement system shall identify those  
12 companies on the list of companies that boycott Israel in  
13 which the retirement system owns direct or indirect  
14 holdings.

15 (2) For each company newly identified in item (1) of  
16 this subsection (c), the retirement system shall send a  
17 written notice informing that company of its status and  
18 that it may become subject to divestment by the retirement  
19 system.

20 (3) If, within 90 days after the retirement system's  
21 first engagement pursuant to this subsection (c) with a  
22 company that boycotts Israel, that company ceases to  
23 boycott Israel, the company shall be removed from the list  
24 of companies that boycott Israel and the provisions of this  
25 Section shall cease to apply to it unless it resumes its  
26 boycott of Israel.

1       (d) If, after 90 days following the retirement system's  
2       first engagement pursuant to subsection (c) with a company that  
3       boycotts Israel, the company continues to boycott Israel, the  
4       retirement system shall sell, redeem, divest, or withdraw all  
5       publicly traded securities of the company from the retirement  
6       system's assets under management within 12 months after the  
7       company's most recent appearance on the list of companies that  
8       boycott Israel.

9       (e) The retirement system may not acquire securities of  
10       companies that boycott Israel on the list of companies that  
11       boycott Israel.

12       (f) Each retirement system shall file a report with the  
13       Public Pension Division of the Department of Financial and  
14       Professional Regulation that includes the list of companies  
15       that boycott Israel within 30 days after the list is created.  
16       This report shall be made available to the public.

17       Each retirement system shall file an annual report with the  
18       Public Pension Division, which shall be made available to the  
19       public, that includes all of the following:

20               (1) a summary of correspondence with companies engaged  
21               by the retirement system under items (2) and (3) of  
22               subsection (c);

23               (2) all investments sold, redeemed, divested, or  
24               withdrawn in compliance with subsection (d); and

25               (3) all prohibited investments under subsection (e).

26       (g) With respect to actions taken in compliance with this

1 Act, including all good-faith determinations regarding  
2 companies as required by this Act, the retirement system is  
3 exempt from any conflicting statutory or common law  
4 obligations, including any fiduciary duties under this Article  
5 and any obligations with respect to choice of asset managers,  
6 investment funds, or investments for the retirement system's  
7 securities portfolios.

8 (h) If any provision of this Section or its application to  
9 any person or circumstance is held invalid, the invalidity of  
10 that provision or application does not affect other provisions  
11 or applications of this Section that can be given effect  
12 without the invalid provision or application.